

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

HERBERT and DORIS STEELE, ERIC R.)
CHAVEZ, ALEXANDRA DIAZ AND)
SONIA TORRES, on behalf of themselves and)
all others similarly situated,) No. 1:08-cv-1880
)
Plaintiffs,) Judge Blanche M. Manning
vs.)
) Magistrate Judge Martin C. Ashman
GE MONEY BANK, a federal savings bank;)
WMC MORTGAGE CORPORATION and)
WMC MORTGAGE, LLC)
)
Defendants.)

**DEFENDANT WMC MORTGAGE'S MOTION TO DISMISS FOR FAILURE TO
STATE A CLAIM, OR IN THE ALTERNATIVE TO JOIN NECESSARY PARTIES AND
TO STRIKE CERTAIN ALLEGATIONS IN THE AMENDED COMPLAINT**

Defendant WMC Mortgage LLC (“WMC”), by its undersigned attorneys, respectfully moves this Court pursuant to Federal Rule of Civil Procedure 12(b)(6) for entry of an order dismissing Plaintiffs’ Amended Class Action Complaint (“Amended Complaint”) in its entirety for failure to state a claim on which relief can be granted.

In the alternative, if the Court does not dismiss the Amended Complaint pursuant to Rule 12(b)(6), WMC respectfully moves this Court pursuant to Federal Rules of Civil Procedure 12(b)(7) and 19(a) for entry of an order requiring Plaintiffs to join their mortgage brokers -- US Mutual, E-Z Home, Bridgeline and Apex -- as necessary parties whose conduct is at the center of this action. In addition, if the Court does not dismiss the Amended Complaint, WMC respectfully moves this Court pursuant to Federal Rule of Civil Procedure 12(f) to strike Plaintiffs’ requests for disgorgement, restitution and tolling of the statute of limitations.

In support of its motions, WMC submits the accompanying **Memorandum in Support of Motions of Defendant WMC Mortgage to Dismiss for Failure to State a Claim, or in the Alternative to Join Necessary Parties and to Strike Certain Allegations in the Amended Complaint**, and appendix of exhibits, both of which are filed herewith.

Respectfully submitted,

Counsel for WMC

s/ James L. Thompson

Dated: July 11, 2008

James L. Thompson - 6199621
Justin C. Steffen
JENNER & BLOCK, LLP
330 N. Wabash Avenue
Chicago, IL 60611
Telephone: (312) 222-9350
Facsimile: (312) 527-0484

Denise Plunkett
DICKSTEIN SHAPIRO LLP
1177 Avenue of the Americas
New York, NY 10036
Tel: 212-277-6519 | eFax: 917-591-5254
PlunkettD@dicksteinshapiro.com

CERTIFICATE OF SERVICE

I, Justin C. Steffen, hereby certify that a true and correct copy of the foregoing Defendant WMC Mortgage's Motion to Dismiss for Failure to State a Claim, or in the Alternative to Join Necessary Parties and to Strike Certain Allegations in the Amended Complaint and the Memorandum in Support of Motions of Defendant WMC Mortgage Corporation's Motion to Dismiss for Failure to State a Claim, or in the Alternative to Join Necessary Parties and to Strike Certain Allegations in the Amended Complaint were served via the CM/ECF system on July 11, 2008 to the following counsel of record:

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| Al Hofeld, Jr. LAW OFFICES OF AL HOFELD, JR., LLC 208 S. LaSalle Street, Suite #1650 Chicago, IL 60604 | Eric N. Macey Kristen Werries Collier NOVACK & MACEY LLP 100 North Riverside Plaza Chicago, Illinois 60606 Telephone: (312) 419-6900 Facsimile: (312) 419-6928 |
| Gary Klein RODDY KLEIN & RYAN 727 Atlantic Ave 2nd Floor Boston, MA 02111 | Richard Rothman John Mastando Walter E. Zalenski WEIL, GOTSHAL & MANGES LLP 767 Fifth Avenue New York, NY 10153 Telephone: (212) 310-8000 Facsimile: (212) 310-8007 |
| Andrew S Friedman Wendy J. Harrison BONNETT, FAIRBOURN, FRIEDMAN & BALINT, P.C. 2901 North Central Avenue Suite 1000 Phoenix, AZ 85012 | |
| Lori Ann Fanning Marvin Alan Miller MILLER LAW LLC 115 South LaSalle Street Suite 2910 Chicago, IL 60603 | |

s/ Justin C. Steffen